

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1655 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 financial institutions and to make an appropriation.
- 4 Page 3, line 26, delete "one hundred" and insert "**seventy-five**".
- 5 Page 3, line 27, delete "(\$100,000) and insert "**(\$75,000)**".
- 6 Page 5, line 30, delete "benchmark" and insert "**interest**".
- 7 Page 10, line 18, after "provide a" insert "**written**".
- 8 Page 10, line 19, delete "seven (7)" and insert "**ten (10)**".
- 9 Page 11, line 35, delete "and copies of all" and insert "**at the same**
- 10 **time as the good faith estimates are provided to the borrower in**
- 11 **accordance with the requirements of the Real Estate Settlement**
- 12 **Procedures Act, 12 U.S.C. 2601 et. seq., as amended.**".
- 13 Page 11, delete lines 36 through 39.
- 14 Page 12, line 27, delete "chapter, though no claim or defense is
- 15 considered a" and insert "**chapter. Nothing in this subsection is**
- 16 **intended or shall be construed to allow any claim or defense**
- 17 **otherwise barred by any statute of limitation or repose.**".
- 18 Page 12, delete line 28.
- 19 Page 12, line 29, delete "A creditor may not engage in a practice or
- 20 have a policy that" and insert "**It shall be unlawful for any creditor**
- 21 **to discriminate against any applicant with respect to any aspect of**
- 22 **a credit transaction on the basis of race, color, religion, national**
- 23 **origin, sex or marital status, or age, provided that the applicant has**
- 24 **the ability to contract.**".

Page 12, delete lines 30 through 31.

Delete page 13.

Page 14, delete lines 1 through 22.

Page 14, line 23, delete "Sec. 21." and insert "**Sec. 20. (a)**".

Page 14, between lines 29 and 30 begin a new paragraph and insert:

**"(b) A creditor in a high cost home loan who in good faith fails to comply with this chapter shall not be considered to have violated this chapter if the creditor establishes that:**

**(1) not later than sixty (60) days after the date of the discovery of the error the creditor:**

**(A) notifies the borrower of the compliance error;**

**(B) makes appropriate restitution to the borrower of any amounts collected in error; and**

**(C) makes all appropriate adjustments to the loan to correct the error.**

**(c) Before subsection (b) applies, the creditor must establish that the compliance failure was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid the errors. For purposes of this subsection, bona fide errors include clerical errors, calculation errors, computer malfunction and programming errors, and printing errors. An error of legal judgment with respect to a person's obligations under this chapter is not a bona fide error for purposes of this subsection."**

Page 14, line 30, delete "Sec. 22." and insert "**Sec. 21.**".

Page 14, line 30, after "(a)" insert "**The attorney general may bring an action to enjoin a violation. A court in which the action is brought may:**

**(1) issue an injunction;**

**(2) order a person to make restitution;**

**(3) void or limit the application of obligations that violate this chapter;**

**(4) order a person to reimburse the state for reasonable costs of the attorney general's investigation and prosecution of the violation of this chapter; or**

**(5) impose a civil penalty of not more than two thousand dollars (\$2,000) per violation.**

**(b) A person who violates an injunction under this section must pay a civil penalty of not more than fifteen thousand dollars (\$15,000) per violation.**

**(c) The court that issues an injunction retains jurisdiction over a proceeding seeking the imposition of a civil penalty under this section.**

**Sec. 22 (a)."**

Page 14, between lines 35 and 36 begin anew paragraph and insert"

**"(b) The attorney general may refer a matter under this section to a prosecuting attorney for enforcement."**

- 1 Page 14, line 36, delete "(b)" and insert "**Sec. 23. (a)**".
- 2 Page 15, line 2, delete "malicious or" and insert "**intentional or**
- 3 **malicious.**".
- 4 Page 15, delete line 3.
- 5 Page 15, line 5, delete "(c)" and insert "**(b)**".
- 6 Page 15, line 8, delete "(d)" and insert "**(c)**".
- 7 Page 15, line 14, delete "(e)" and insert "**(d)**".
- 8 Page 15, line 18, delete "(f)" and insert "**(e)**".
- 9 Page 15, line 19, delete "may" and insert "**shall**".
- 10 Page 15, line 22, delete "(g)" and insert "**(f)**".
- 11 Page 15, line 27, delete "Sec. 23." and insert "**Sec. 24.**".
- 12 Page 15, line 29, delete "Sec. 24." and insert "**Sec. 25.**".
- 13 Page 16, line 20, delete "Sec. 25." and insert "**Sec. 26.**".
- 14 Page 16, line 21, delete "24(f)" and insert "**25(f)**".
- 15 Page 16, line 23, delete "Sec. 26." and insert "**Sec. 27.**".
- 16 Page 16, line 24, delete "24(f)" and insert "**25(f)**".
- 17 Page 16, line 26, delete "Sec. 27." and insert "**Sec. 28.**".
- 18 Page 17, line 3, delete "Sec. 28. (a)" and insert "**Sec. 29.**"
- 19 Page 17, delete lines 11 through 25.
- 20 Page 17, line 26, delete "Sec. 29." and insert "**Sec. 30.**".
- 21 Page 17, line 31, delete "30." and insert "**31.**".
- 22 Page 17, line 31, delete "covered" and insert "**high cost home**".
- 23 Page 17, line 34, delete "covered" and insert "**high cost home**".
- 24 Page 17, line 38, delete "covered" and insert "**high cost home**".
- 25 Page 17, between lines 39 and 40, begin a new paragraph and insert:
- 26 "**Sec. 32. (a) This chapter does not apply to any bank, trust**
- 27 **company, savings and loan, savings bank, or credit union that is**
- 28 **chartered under the laws of Indiana to the extent federal law**
- 29 **precludes or preempts the application of the provisions of this**
- 30 **chapter to any federally chartered bank, trust company, savings**
- 31 **and loan, savings bank, or credit union, respectively.**
- 32 **(b) The federal preclusion or preemption applies only to the**
- 33 **same type of state chartered entity as the federally chartered entity**
- 34 **affected.**
- 35 **(c) The provisions of this chapter are applicable to home loan**
- 36 **brokers for any loan originated or brokered by the broker that is**
- 37 **originally funded by any other state or federally chartered bank,**
- 38 **trust company, savings and loan, savings bank, or credit union."**
- 39 Page 20, between lines 30 and 31 begin a new paragraph and insert:
- 40 "SECTION 6. [EFFECTIVE JULY 1, 2003] **(a) There is**
- 41 **appropriated to the legislative council seventy-five thousand**
- 42 **dollars (\$75,000) from the fee revenue credited to the mortgage**
- 43 **fraud unit under IC 24-4-6.5-29, as added by this act, for its use in**
- 44 **contracting with an independent organization to conduct a study**
- 45 **of predatory lending and the causes of the high rate of foreclosure**
- 46 **in Indiana during the years 2001, 2002 and 2003 beginning July 1,**

1       **2004, and ending June 30, 2005.**

2       **(b) The money appropriated by this SECTION does not revert**  
 3       **to the state general fund at the close of any state fiscal year but**  
 4       **remains available to the legislative council until the purpose for**  
 5       **which it was appropriated is fulfilled.**

6       **(c) The results of the study shall be reported in writing to the**  
 7       **legislative council not later than December 31, 2005. The report is**  
 8       **a public record.**

9       **(d) This SECTION expires January 1, 2006.**

10       SECTION 6. [EFFECTIVE JANUARY 1, 2006] (a) **As used in this**  
 11       **SECTION, "committee" refers to the interim study committee on**  
 12       **mortgage lending policies established by subsection (b).**

13       **(b) There is established the interim study committee on**  
 14       **mortgage lending policies. The committee shall study predatory**  
 15       **lending and the high rate of foreclosure in Indiana.**

16       **(c) The committee shall operate under the policies governing**  
 17       **study committees adopted by the legislative council.**

18       **(d) The affirmative votes of a majority of voting members**  
 19       **appointed to the committee are required for the committee to take**  
 20       **action on any measure, including final reports.**

21       **(e) This SECTION expires December 31, 2006."**

22       Renumber all SECTIONS consecutively.

(Reference is to HB 1655 as printed February 28, 2003.)

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Representative Bardon